

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

HOLLIE TOUPS

VS.

GOOGLE, INC., YAHOO!, INC. AND
WWW.MYEX.COM

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CASE No. _____

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, HOLLIE TOUPS, files Plaintiff's Original Complaint, complaining of Google, Inc., Yahoo!, Inc. AND WWW.MYEX.COM, Defendants, and for a cause of action would show the following.

PARTIES

1. Plaintiff HOLLIE TOUPS, is an individual residing in Jefferson County, Texas and is appearing in court through her attorney of record.
2. Defendant GOOGLE, INC., can be served with process through its registered agent Corporation Service Company d/b/a CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.
3. Defendant Yahoo!, Inc., can be served with process through its

registered agent C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

4. Defendant WWW.MYEX.COM, can be served with process through Websolutions Netherlands BV, Attn: Legal Department, Singel 850, 1017 AZ Amsterdam, The Netherlands.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to federal question jurisdiction, 28 U.S.C. §§ 1331. Venue is proper in this district and division of federal court.

FACTS AND CAUSES OF ACTION

6. This is a lawsuit brought pursuant to the United States copyright act of 1976, 17 U.S.C. §§ 101-810, as amended. The Plaintiff Hollie Touns (“Touns”) is the victim of what is called “revenge porn” websites, www.texxxan.com and www.texxxans.com. Ms. Touns and other plaintiffs filed suit in Orange County, state court against these websites in Cause No. D-130,018-C. Touns was successful in obtaining a temporary injunction shutting down these websites up until the time of trial. Touns is seeking a permanent injunction to seek the permanent shutdown of these websites.

7. Although Toups has pursued state court remedies against these two (2) websites, the Defendants in this matter continue to host and/or provide links to photographs of Toups that she has copyrighted pursuant to the Copyright Act. Toups has provided proper notice to each of these Defendants, requesting that they take down all links that would show these copyrighted photos, and all images showing these copyrighted images. All of the Defendants refuse to do so, despite receiving proper notice and a demand to do so. Accordingly, Toups is bringing this lawsuit in order to seek damages for each of the Defendants' breach of her copyrighted images, as well as a permanent injunction requiring these Defendants to no longer breach her copyright by hosting these images and providing links that would show these images.

8. Toups brings this lawsuit under Section 102 of the Copyright Act, and would show the Court that copyright protection extends to Toups' images and/or the images on the links that are being hosted by these Defendants and this website at issue. Section 102 of the Act defines work or authorship to include pictorial, graphic or other works, that include the images at issue. Under Section 106 of the Copyright Act, Toups has exclusive rights and exclusive use of these images as the copyright holder,

which includes the right to copy, distribute or display any and all of these works. Further, the Defendants cannot avail themselves of a “fair use” defense under Section 107 of the Copyright Act. This defense is not applicable, because under the Fair Use Doctrine a copyrighted work is not subject to a copyright infringement lawsuit only if its use is for such things as teaching, scholarship, research or news reporting. The hosting of Toups’ copyrighted images do not fall within the purview of this affirmative defense.

9. Accordingly, Toups requests that this Court enforce her copyrights. Toups is suing each of these Defendants for breach of copyright, and seeks to recover all of her actual or compensatory damages, a permanent injunction prohibiting each and all of these Defendants from displaying her copyrighted images at issue, or hosting a link that contains her images at issue, and all other relief that Toups can obtain pursuant to the Copyright Act.

10. Pursuant to statute, 17 U.S.C. § 505, Toups also seeks to recover all of her reasonable and necessary attorneys’ fees, costs and expenses incurred in prosecuting this cause of action.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer herein. Plaintiff requests that she obtain a Judgment against all Defendants, jointly and severally, for all her compensatory damages. Plaintiff also requests that she recover permanent injunctive relief against each Defendant in this case. Plaintiff also requests that she recover all her reasonable and necessary attorneys' fees, court costs and expenses. Finally, Plaintiff requests such other and further relief, at law or in equity, to which she may show herself to be justly entitled.

Respectfully submitted,

/s/ John S. Morgan
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JURY DEMAND

Plaintiff herein hereby requests a trial by jury.

/s/ John S. Morgan
JOHN S. MORGAN